

April 16, 1998

MEMORANDUM TO: Distribution

FROM: Michael J. Rubino, Associate Director
Acquisition Services Branch

SUBJECT: Policy Memorandum No. 98-012 – Monitoring
Subcontracting Plans/Joint Venture Agreements

1. Purpose. The purpose of this Policy Memorandum is to modify the Acquisition Policy Manual (APM) to provide revised contract administration procedures for monitoring subcontracting plans and joint venture agreements.
2. References. APM 7.A.1.b., *Scope (Contract Administration)*, Page 7-1
APM 7.D., *Formal Contract Administration*, Page 7-17
APM 7.G., *Monitoring Contractor Performance*, Page 7-25
3. Scope. This Policy Memorandum is applicable to all Contracting Officers and other Acquisition Services Branch (ASB) personnel and to all Oversight Managers and Technical Monitors.
4. Background. Contract administration encompasses monitoring and oversight of all relationships and activities between the FDIC and its contractors during contract performance. To be effective, it requires teamwork between the Contracting Officer and the Oversight Manager/Technical Monitors. An important aspect of contract administration involves monitoring compliance with approved subcontracting plans and joint venture agreements.

Subcontracting plans and JV Agreements play a significant role in an offeror's ability to address our contractual requirements. They allow offerors to expand their capabilities and qualifications and to support Minority and Women Owned Business (MWOB) participation under FDIC contracts. If an award is made and it includes an approved subcontracting plan or JV agreement, then these representations become contractually binding and require compliance monitoring. This is especially significant when price incentive evaluation points are applied in accordance with APM 6.D.6. during proposal evaluation and an award is made based upon these additional incentives. Therefore, the APM requires revision to address compliance monitoring for subcontracting plans and JV agreements.

5. APM Changes. In accordance with the foregoing, the APM is revised as follows:

a. AMP 7.A.1.b., *Scope*, is deleted in its entirety and re-stated as follows:

“7.A.1.b. ***Scope.*** Contract administration encompasses oversight of all relationships between FDIC and the contractor relating to contractor performance. This includes the interactions between both parties from the time of contract until the work has been completed and accepted, monitoring contractor performance and subcontracting plans/Joint Venture agreements, final payment, resolution of any disputes or adjustments, and contract close out.”

b. APM 7.B.1.h.(7), regarding the Oversight Manager’s duties, is deleted in its entirety and re-stated as follows:

“(7) Maintain constant cognizance with respect to technical compliance with contract terms on the part of the contractor, including compliance with approved subcontracting plans/activity or Joint Venture (JV) agreements and the approved participation levels of the JV partners.”

c. APM 7.B.2.a.(17), regarding the Contracting Officer’s duties, is deleted in its entirety and re-stated as follows:

“(17) Monitor the contractor’s reporting and compliance with approved subcontracting plans/activity and JV agreements and the approved participation levels of the JV partners;”

d. A new provision, APM 7.D.2.h., is added to the list of functions of contract administration as follows:

“7.D.2.h. ***Subcontracting Plan/Joint Venture Agreement Compliance.*** Monitoring compliance with approved subcontracting plans/activity or Joint Venture (JV) agreements and the participation levels of the JV partners.”

e. APM 7.E.3., dealing with Post-Award Conference Agenda items, is changed to delete APM 7.E.3.d., *Subcontracting*, in its entirety and re-stated it as follows:

“7.E.3.d. ***Subcontracting.*** Discuss contractor compliance with approved subcontracting plans or Joint Venture agreements.”

- f. APM 7.G.1.c., *Oversight Manager Responsibility*, is changed to add a new provision as follows:

“(6) Monitor monthly contractor reports on subcontractor activity and Joint Venture (JV) partner participation and ensure compliance with the approved subcontracting plan and JV agreement participation levels.”

- i. APM 7.G.4.a.(4), *Performance Evaluation*, is deleted in its entirety and re-stated as follows:

“(4) The evaluations shall contain information on: overall performance, compliance with the SOW, cost control, adherence to schedules, compliance with Subcontracting Plans and Joint Venture agreements (including MWOB subcontractors and JV partners), timely and accurate reporting documents, responsiveness to requests/problems, general capabilities of contractor personnel, supporting narrative for all ratings and whether the OM would hire the contractor again.”

- h. APM 7.G.6., *Monitoring Compliance with MWOB Joint Venture and MWOB Contracting Requirements*, is deleted in its entirety and re-stated as follows:

“7.G.6. **Monitoring Compliance with Approved Subcontracting Plans and Joint Venture Agreements.**

Contractors shall comply with Contracting Officer approved subcontracting plans and Joint Venture (JV) agreements upon which award was based, and any revisions subsequently approved by the Contracting Officer. This includes subcontracts to Minority and Women Owned Business (MWOB) concerns and MWOB JV partners. The Contracting Officer and the Oversight Manager are jointly responsible for monitoring compliance during contract administration by reviewing invoices and the monthly Subcontracting/JV Activity reports required by the contract. Contractors that are found not to be performing in accordance with the terms of the contract (i.e., approved subcontracting plan or JV agreement), regarding the distribution of work and dollar amounts paid to subcontractors or JV partners, may be considered in material breach of their contract and shall be handled in accordance with the provisions stated therein.”

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6. Effective Date. This Policy Memorandum is effective immediately.
7. Contacts. If you have any questions, please contact David McDermott on (202) 942-3434.

cc: Jane Sartori
John Lynn
Jo Ann Henry
Greg Cofer
Vijay G. Deshpande

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